

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Group Art Unit: TBA
)	
Magnusson, Katrina et al)	Examiner: TBA
)	
Filed: September 3, 2003)	Attorney Docket: SG 03233
)	
Serial No.: To be determined)	
)	
For: Method For Manufacturing)	Date: September 3, 2003
A Packaging Laminate)	

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313

REMARKS

Sir:

An After Final Amendment was filed in parent application Serial Number 09/704,651 in which claims 1 and 6 were amended to incorporate the limitations of claims 4 and 8 and also to include the limitation that heat treatment of the laminate occurs in an autoclave. An advisory action dated August 29, 2003 was received in response to this amendment in which the Examiner refused entry of the amendment as it raised new issues which would require further search and consideration. In response thereto, Applicant has filed a Continuation-In-Part application.

In this Continuation-In-Part application, claims 1-3, 5-7 and 9 remain the same as those submitted in the After Final Amendment. New claims 4 and 8 are being submitted in this Continuation-In-Part application. These new claims require that the heat treatment of the container occurs without the application of mechanical pressure thereto. The specification has also been amended at pages 8-9 to provide antecedent basis for these new claims.

During examination of this Continuation-In-Part application, please consider the following comments:

The Examiner states that Snow discloses a laminated packaging material comprising an outermost layer of polyester or polypropylene, a metallic foil layer of aluminum and an innermost layer of a heat sealable polyolefin such as LLDPE. The Examiner further states that once the laminate material is formed, the containers may be folded and heat sealed.

It is Applicant's position that Snow fails to teach the partial adherence step as required by independent claims 1 and 6.

Snow fails to teach that the packaging material is formed into a container with the use of moist heat at a pressure greater than atmospheric pressure. The Examiner relies upon

Wilson as teaching heat-sealing of thermoplastic packages in a steam-atmosphere.

Wilson is directed to the closing of container pouches by means of sealing, the pouches being formed of a thermoplastic material or coated with the same. Thus, this reference concerns conventional heat-sealing of thermoplastic materials, whereby an open end of a thermoplastic pouch is sealed. In this connection, a tool is locally compressing the laminar film layers, the sealing surfaces being pressed together to a temperature higher than the temperature of the steam atmosphere in question. Of course, the pressure exerted by the tool is greater than the atmospheric pressure at the time of sealing. It should be noted that the tool is indispensable for exerting the pressure for sealing. In fact, this reference is primarily directed to the tool itself. New claims 4 and 8 require that heat treating of the laminate occurs without the application of mechanical pressure thereto.

Wilson is specifically concerned with the problems obtained when thermoplastic films of high melting points are to be sealed in a steam atmosphere. When heat sealing, the energy applied results in the surface melting of the film layers, and the seal is produced.

The present invention, on the other hand, utilizes the heat treatment in, for example, an **autoclave**. Also, note that the heat treatment step is accomplished **without** the use of mechanical pressure on the laminate. Also, surprisingly, the folded container is capable of withstanding the moist heat while at the same time being sterilized. The limitation of heat treatment in an autoclave which is now stated in the independent claims 1 and 6 is not shown by Wilson. The limitation of heat treating the laminate without the application of mechanical pressure thereto is stated in new claims 4 and 8.

Nothing is mentioned in the Wilson reference about the adhesion between different layers in the laminate. Neither does Wilson discuss the mechanical rigidity of a container since this reference is concerned with pouches. On the contrary, a sealed seam of a pouch should have some flexibility.

In the Advisory Action dated 8/29/03, the Examiner states that "partial adherence" is a relative term and the fact that Snow teaches "strong adherence" of the layers still meets the limitations of the claims because Snow teaches that the laminate may be used to form a container by folding without any delamination occurring. The Examiner further states that "Applicants and the Snow reference rely upon different language to describe the same level of adherence between the different

layers and therefore the limitation of "partial adherence" is met by Snow".

Applicants disagree with this position as "partial adherence" is defined in the specification and is well known in the art as being that wherein the layers are capable of sliding with respect to one another (see pages 7 and 9 of the specification). This limitation is recited in claims 3 and 7 of the application. Also, please note that page 7 of the specification requires that the partial adherence is achieved by **adjusting the temperature** of the laminate when extruded (emphasis mine). There is nothing in the teachings of Snow which would suggest that the layers are capable of sliding with respect to one another or that the temperature of the laminate is adjusted during extrusion so that only a partial adherence is obtained. Thus, Applicants disagree with the Examiner's statement that "Applicants and the Snow reference rely upon different language to describe the same level of adherence between the different layers" as Snow clearly does not even remotely suggest language which would imply that only a partial adherence between the layers is obtained prior to formation of the laminate into the shape of the container.

Conclusion

It is respectfully requested that these comments be considered during examination of the present Continuation-In-Part application.

In view of the foregoing arguments and amendments, Applicant believes that the application meets all applicable statutory and regulatory requirements. Accordingly, Applicant respectfully requests allowance of all claims remaining in the application.

If the Examiner has any questions regarding this amendment and/or believes that a telephone interview would assist in the advancement of this case to allowance, he/she is invited to contact the undersigned Agent for Applicant.

Respectfully submitted,

by Michele K. Yoder
Michele K. Yoder
Reg. No. 41,562
Agent for Applicant

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146-3309
TELEPHONE (412) 380-0725
FACSIMILE (412) 380-0748